

## **REMARKS**

Claims 1-5 are rejected under 35 USC 101, that a §101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing.

Thus, to qualify as a §101 statutory process, the claim should positively recite the thing or product to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be performed without the use of a particular apparatus. Thus, claims 1-5 non-statutory since they may be performed within the human mind.

Applicant has amended claim 1, claims 2-4 are dependent on claim 1, and has amended claim 5. The amended claims are supported in the specification on pages 5-7. Claims 1-4 require that the light bulbs are manufactured. Claim 1 further requires that the packaging for the light bulbs has information placed on it regarding which light bulbs perform well with which color pallet of a room. Further the claims require that the light bulbs are merchandised by placing the above information on displays visible to a user. None of these steps can be performed within the human mind, and each of these steps requires physical steps, which include physically manufacturing light bulbs, and that physically creating packaging for these light bulbs wherein information is physically placed on the packaging and the merchandising displays.

Claim 5 requires that information is that is calculated is then put in tangible form by marking it on the packaging. This is a tangible step.

Therefore the above claims are allowable over 35 USC 101.

Claims 1-4 are rejected under 35 USC 103(a) as being unpatentable over US Patent No. 5,794,217 to Allen in view of U.S. Patent Appln. No. 2005/0040774 to Mueller et al.

Regarding claims 1-4, Allen discloses the method of selling items comprising the manufacturing, packaging and merchandising of items (abstract; col. 8, lines 19-20; col. 4, lines 12-35). However, Allen does not explicitly disclose the manufacturing light bulbs based on room color; adjusting Kelvin rating on light bulbs; light bulbs affect spectrum of visible light that is emitted; and light bulbs affect spectrum that has been created and down plays colors that are not.

Mueller on the other hand, teaches that manufacturing light bulbs based on room color; adjusting Kelvin rating on light bulbs; light bulbs affect spectrum of visible light that is emitted; and light bulbs effect spectrum that has been created and down plays colors that are not (abstract; paragraphs 26-27; paragraph 128; paragraph 187; paragraph 192).

Therefore, it would have been obvious to modify the method of Allen, to include the manufacturing light bulbs based on room color; adjusting Kelvin rating on light bulbs; light bulbs affect spectrum of visible light that is emitted; and light bulbs affect spectrum that has been created and down plays colors that are not, as taught by

Mueller, in order to specify a point within the range of color producible by lighting fixture that will be the point of highest intensity (Mueller, paragraph 19).

Allen specifically relates to the issue of inventory management. The invention is directed to a system for preview, selection, retrieval and reproduction at remote locations of titles on selected media, and for maintaining at one or more primary storage facilities, accounting data associated with the preview, selection and/or reproduction transactions. Allen specifically states in the Abstract that the invention relates to a on demand delivery system for the manufacture of original content recordings. The abstract further states that the invention relates to compressing data. It is further stated that the device duplicates the content on blank media. The above claims relate to light bulbs. Col. 8 lines 19-20 relates to a graphics portion for the recordings which can include artwork and insert materials. The Examiner that cites to Col. 4 lines 12-35 which teaches multiple consumer interface terminals for browsing database of titles. Again the claims of the present invention relate to light bulbs, which are not taught or described by Allen, nor is there any teaching that can be inferred from this reference.

Mueller relates to a system and method for generating and/or modulating illumination conditions to generate light of a desired and controllable color, for creating lighting fixtures for producing light in desirable and reproducible colors, and for modifying the color temperature or color shade of light produced by a lighting fixture within a pre-specified range after a lighting fixture is constructed.

As stated in the Abstract, Mueller relates to methods and apparatus for generating and modulating white light. The fixture can produce white light within a range of color temperatures. Mueller further teaches a calibration system for measuring the spectrum of ambient light and adjusting the color of the light produced by the lighting fixture. The white light fixtures can contain programming which enables a user to easily control the light and select any desired color or temperature that is available. Mueller teaches that the LED system can be programmed to produce different color lights when the program is at different levels. Mueller further teaches specifying the point within the range of color producable by a lighting fixture that will be the point of highest intensity.

Claim 1 requires that the packaging have information regarding which light bulbs perform well with which color pallet of a room. Neither of the above references alone or in combination teach this element. Further, Mueller teaches that the lights can change colors and therefore it goes against the teaching of this patent which specifies specific light bulbs for specific room colors. Therefore Claim 1 is not obvious over the prior art.

With regards to Claims 2-4, for the reasons stated above for Claim 1, Claims 2-4 are not obvious over the prior art.

Claim 5 is rejected under 35 USC 103(a) as being unpatentable over US Patent Appln. No. 2005/0040774 to Mueller et al. in view of US Patent No. 5,794,217 to Allen.

Mueller discloses the method comprising adjusting a Kelvin rating on said light bulbs; determining said spectrum of light affect by said light bulb; and how colors in a

room are effected by said light bulb (abstract; paragraphs 26-27; paragraph 128; paragraph 187; paragraph 192). However, Mueller does not explicitly disclose packaging and markings on said packaging.

Allen, on the other hand, teaches packaging and markings on said packaging (col. 8, lines 19-20).

Therefore, it would have been obvious to modify the method of Mueller, to include packaging and markings on said packaging, as taught by Allen, in order to provide a method which permits for improved marketing, selection and previewing capabilities without the need for maintaining large inventories of material at a point of sale location (Allen, col. 3, lines 20-23).

The Examiner agrees that Mueller does not teach anything regarding packaging. The Examiner points to Allen which states it is an object of the invention to improve marketing. However, the claims specifically address how the products in the present application are marketed. The prior art alone or in combination does not teach the specific elements in Claim 5. Therefore, Claim 5 is not obvious over the prior art.

Applicant believes that the application is now in condition for allowance.

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